



General Assembly

January Session, 2011

Raised Bill No. 1056

LCO No. 3783

03783_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING THE CONNECTICUT ESTATE TAX AND
CODIFYING THE EXTENSION OF TIME FOR MAKING A QUALIFIED
DISCLAIMER FOR FEDERAL ESTATE TAX PURPOSES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (c) to (f), inclusive, of section 12-391 of the
2 general statutes are repealed and the following is substituted in lieu
3 thereof (*Effective from passage and applicable to estates of decedents who die*
4 *on or after January 1, 2009*):

5 (c) For the purposes of this section:

6 (1) (A) "Connecticut taxable estate" means, with respect to the
7 estates of decedents dying on or after January 1, 2005, but prior to
8 January 1, 2010, (i) the gross estate less allowable deductions, as
9 determined under Chapter 11 of the Internal Revenue Code, plus (ii)
10 the aggregate amount of all Connecticut taxable gifts, as defined in
11 section 12-643, made by the decedent for all calendar years beginning
12 on or after January 1, 2005, but prior to January 1, 2010. The deduction
13 for state death taxes paid under Section 2058 of said code shall be
14 disregarded.

15 (B) "Connecticut taxable estate" means, with respect to the estates of
16 decedents dying on or after January 1, 2010, (i) the gross estate less
17 allowable deductions, as determined under Chapter 11 of the Internal
18 Revenue Code, except as provided in subsection (f) of this section, plus
19 (ii) the aggregate amount of all Connecticut taxable gifts, as defined in
20 section 12-643, made by the decedent for all calendar years beginning
21 on or after January 1, 2005, other than Connecticut taxable gifts that
22 may be included in the gross estate of the decedent. The deduction for
23 state death taxes paid under Section 2058 of said code shall be
24 disregarded.

25 (2) "Internal Revenue Code" means the Internal Revenue Code of
26 1986, or any subsequent corresponding internal revenue code of the
27 United States, as from time to time amended, except in the event of
28 repeal of the federal estate tax, then all references to the Internal
29 Revenue Code in this section shall mean the Internal Revenue Code as
30 in force on the day prior to the effective date of such repeal.

31 (3) "Gross estate" means the gross estate, for federal estate tax
32 purposes. If federal estate tax was paid from the gross estate, "gross
33 estate" means the gross estate as finally determined for federal estate
34 tax purposes.

35 (d) (1) (A) With respect to the estates of decedents who die on or
36 after January 1, 2005, but prior to January 1, 2010, a tax is imposed
37 upon the transfer of the estate of each person who at the time of death
38 was a resident of this state. The amount of the tax shall be determined
39 using the schedule in subsection (g) of this section. A credit shall be
40 allowed against such tax for any taxes paid to this state pursuant to
41 section 12-642 for Connecticut taxable gifts made on or after January 1,
42 2005, but prior to January 1, 2010.

43 (B) With respect to the estates of decedents who die on or after
44 January 1, 2010, a tax is imposed upon the transfer of the estate of each
45 person who at the time of death was a resident of this state. The
46 amount of the tax shall be determined using the schedule in subsection

47 (g) of this section. A credit shall be allowed against such tax for any
48 taxes paid to this state pursuant to section 12-642 for Connecticut
49 taxable gifts made on or after January 1, 2005, provided such credit
50 shall not exceed the amount of tax imposed by this section.

51 (2) If real or tangible personal property of such decedent is located
52 outside of this state, [and is subject to estate, inheritance, legacy or
53 succession taxes by any state or states, other than the state of
54 Connecticut, or by the District of Columbia,] the amount of tax due
55 under this section shall be reduced by [the lesser of: (A) The amount of
56 any taxes paid to such other state or states or said district; or (B)] an
57 amount computed by multiplying the tax otherwise due pursuant to
58 subdivision (1) of this subsection, without regard to the credit allowed
59 for any taxes paid to this state pursuant to section 12-642, by a fraction,
60 [(i)] (A) the numerator of which is the value of that part of the
61 decedent's gross estate over which such other state or states or said
62 district have jurisdiction for estate tax purposes to the same extent to
63 which this state would assert jurisdiction for estate tax purposes under
64 this chapter, with respect to the residents of such other state or states
65 or said district, and [(ii)] (B) the denominator of which is the value of
66 the decedent's gross estate.

67 (3) Property of a resident estate over which this state has jurisdiction
68 for estate tax purposes includes real property situated in this state,
69 tangible personal property having an actual situs in this state and
70 intangible personal property owned by the decedent, regardless of
71 where it is located.

72 (e) (1) (A) With respect to the estates of decedents who die on or
73 after January 1, 2005, but prior to January 1, 2010, a tax is imposed
74 upon the transfer of the estate of each person who at the time of death
75 was a nonresident of this state. The amount of such tax shall be
76 computed by multiplying (i) the amount of tax determined using the
77 schedule in subsection (g) of this section by (ii) a fraction, the
78 numerator of which is the value of that part of the decedent's gross

79 estate over which this state has jurisdiction for estate tax purposes, and
80 the denominator of which is the value of the decedent's gross estate. A
81 credit shall be allowed against such tax for any taxes paid to this state
82 pursuant to section 12-642, for Connecticut taxable gifts made on or
83 after January 1, 2005, but prior to January 1, 2010.

84 (B) With respect to the estates of decedents who die on or after
85 January 1, 2010, a tax is imposed upon the transfer of the estate of each
86 person who at the time of death was a nonresident of this state. The
87 amount of such tax shall be computed by multiplying (i) the amount of
88 tax determined using the schedule in subsection (g) of this section by
89 (ii) a fraction, the numerator of which is the value of that part of the
90 decedent's gross estate over which this state has jurisdiction for estate
91 tax purposes, and the denominator of which is the value of the
92 decedent's gross estate. A credit shall be allowed against such tax for
93 any taxes paid to this state pursuant to section 12-642, for Connecticut
94 taxable gifts made on or after January 1, 2005, provided such credit
95 shall not exceed the amount of tax imposed by this section.

96 (2) Property of a nonresident estate over which this state has
97 jurisdiction for estate tax purposes includes real property situated in
98 this state and tangible personal property having an actual situs in this
99 state.

100 (f) [(1)] For the purposes of the tax imposed under this section, [the
101 value of the Connecticut taxable estate shall be determined taking into
102 account all of the deductions available under the Internal Revenue
103 Code of 1986, specifically including, but not limited to, the deduction
104 available under Section 2056(b)(7) of said code for a qualifying income
105 interest for life in a surviving spouse.

106 (2) An election under said Section 2056(b)(7) may be made for state
107 estate tax purposes regardless of whether any such election is made for
108 federal estate tax purposes] any election made for federal estate tax
109 purposes under Section 2056(b)(7) of the Internal Revenue Code of
110 1986 for a qualifying income interest for life in a surviving spouse shall

111 be disregarded for the purposes of determining the gross estate or any
 112 available deduction, and a separate election under Section 2056(b)(7) of
 113 said code may be made for state estate tax purposes regardless of
 114 whether such election is made with respect to that property or any
 115 other property for federal estate tax purposes. The value of the gross
 116 estate shall include the value of any property in which the decedent
 117 had a qualifying income interest for life for which [an election was
 118 made] a deduction was previously allowed under this subsection with
 119 respect to the transfer of such property to the decedent for Connecticut
 120 estate tax purposes, but shall not include the value of any such
 121 property for which no deduction was previously allowed under this
 122 subsection for Connecticut estate tax purposes, even if a federal
 123 deduction was previously allowed with respect to the transfer of such
 124 property to the decedent either before or after January 1, 2005. For the
 125 purposes of this subsection, "election" includes any partial election or
 126 nonelection.

127 Sec. 2. Subsection (d) of section 45a-579 of the general statutes is
 128 repealed and the following is substituted in lieu thereof (*Effective from*
 129 *passage*):

130 (d) A disclaimer under this section shall be effective if made in the
 131 following manner: (1) A disclaimer of a present interest shall be
 132 delivered not later than the date which is nine months after the later of:
 133 (A) The death of the decedent or the donee of the power or, (B) if the
 134 disclaimer is made by or on behalf of a natural person, the day on
 135 which such person attains the age of eighteen years, or, if such person
 136 does not survive to the age of eighteen years, the day on which such
 137 person dies; (2) a disclaimer of a future interest shall be delivered not
 138 later than the date which is nine months after the later of: (A) The
 139 event that determines that the taker of the interest is finally ascertained
 140 and such interest is indefeasibly vested or, (B) if the disclaimer is made
 141 by or on behalf of a natural person, the day on which such person
 142 attains the age of eighteen years, or, if such person does not survive to
 143 the age of eighteen years, the day on which such person dies; (3) the

144 disclaimer shall be delivered to the legal representative of the estate of
 145 the decedent or deceased donee of the power or the holder of the legal
 146 title to the property to which the interest relates; and (4) if an interest
 147 in real property is disclaimed, a copy of such disclaimer shall also be
 148 recorded in the office of the town clerk of the town in which the real
 149 property is situated within such nine-month period, and, if a copy of
 150 such disclaimer is not so recorded, it shall be ineffective against any
 151 person other than the disclaimant, or the person on whose behalf such
 152 disclaimer is made, but only as to such real property interest. Although
 153 not a condition to disclaimer, if within such nine-month period, a copy
 154 of such disclaimer and a receipt therefor, executed by such legal
 155 representative or such holder of legal title in the same manner as
 156 provided for the disclaimer, are filed in the probate court having
 157 jurisdiction over the estate of the decedent or deceased donee, such
 158 action shall constitute conclusive evidence of timely disclaimer.
 159 Notwithstanding the provisions of this subsection, with respect to an
 160 interest in property that passes by reason of a decedent dying after
 161 December 31, 2009, but prior to December 17, 2010, a disclaimer under
 162 this section shall be effective if made within the time limits set forth in
 163 this subsection, or not later than September 17, 2011, whichever is later.

164 Sec. 3. Subsection (d) of section 45a-583 of the general statutes is
 165 repealed and the following is substituted in lieu thereof (*Effective from*
 166 *passage*):

167 (d) A disclaimer under this section shall be effective if made in the
 168 following manner: (1) A disclaimer of a present interest shall be
 169 delivered not later than the date which is nine months after the later of
 170 (A) the effective date of the nontestamentary instrument, or (B) if the
 171 disclaimer is made by or on behalf of a natural person, the day on
 172 which such person attains the age of eighteen years or, if such person
 173 does not survive to the age of eighteen years, the day on which such
 174 person dies. (2) A disclaimer of a future interest shall be delivered not
 175 later than the date which is nine months after the later of (A) the event
 176 determining that the taker of the interest is finally ascertained and

177 such interest is indefeasibly vested or (B) if the disclaimer is made by
178 or on behalf of a natural person, the day on which such person attains
179 the age of eighteen years or, if such person does not survive to the age
180 of eighteen years, the day on which such person dies. (3) If the
181 disclaimant, or the person on whose behalf the disclaimer is made,
182 does not have actual knowledge of the existence of the interest, the
183 disclaimer shall be delivered not later than the date which is nine
184 months after the later of (A) the date on which the disclaimant, or the
185 person on whose behalf the disclaimer is made, first has actual
186 knowledge of the existence of the interest or (B) if the disclaimer is
187 made by or on behalf of a natural person, the day on which such
188 person attains the age of eighteen years or, if such person does not
189 survive to the age of eighteen years, the day on which such person
190 dies. (4) The disclaimer shall be delivered to the transferor of the
191 interest, the transferor's legal representative or the holder of the legal
192 title to the property to which such interest relates. (5) If an interest in
193 real property is disclaimed, a copy of such disclaimer shall also be
194 recorded in the office of the town clerk in which the real property is
195 situated within such nine-month period, and if a copy of such
196 disclaimer is not so recorded, it shall be ineffective against any person
197 other than the disclaimant, or the person on whose behalf such
198 disclaimer is made, but only as to such real property interest. For the
199 purposes of this section, the effective date of a nontestamentary
200 instrument is the date on which the maker no longer has power to
201 revoke it or to transfer to the maker or another the entire legal and
202 equitable ownership of the interest. Notwithstanding the provisions of
203 this subsection, with respect to an interest in property that passes
204 under a nontestamentary instrument by reason of a decedent dying
205 after December 31, 2009, but prior to December 17, 2010, a disclaimer
206 under this section shall be effective if made within the time limits set
207 forth in this subsection, or not later than September 17, 2011,
208 whichever is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to estates of decedents who die on or after January 1, 2009</i>	12-391(c) to (f)
Sec. 2	<i>from passage</i>	45a-579(d)
Sec. 3	<i>from passage</i>	45a-583(d)

Statement of Purpose:

To: (1) Amend the Connecticut estate tax, and (2) codify the federal extension of time to make a qualified disclaimer for federal estate tax purposes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]